



General Assembly

February Session, 2016

Amendment

LCO No. 4402



Offered by:

SEN. FASANO, 34th Dist.

SEN. WITKOS, 8th Dist.

To: Senate Bill No. 364

File No. 325

Cal. No. 243

"AN ACT CONCERNING NOTIFICATION TO THE STATE'S ATTORNEY OF THE DEATH OF A PERSON IN STATE CUSTODY."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 4-37f of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2017*):

5 The executive authority of each state agency for which a foundation
6 is established shall, in accordance with a policy adopted by the board
7 of trustees of the constituent unit for each state agency which is a
8 constituent unit or which is a public institution of higher education
9 under the jurisdiction of the constituent unit, ensure that, or the
10 executive authority of each state agency for which a foundation is
11 established for the principal purpose of coordinated emergency
12 recovery shall ensure that:

13 (1) The foundation shall have a governing board to oversee its
14 operation;

15 (2) If the state agency is a constituent unit, the following persons
16 shall serve as nonvoting members of the governing board of the
17 foundation unless the bylaws of the foundation provide that they be
18 voting members: The executive authority of the constituent unit, or his
19 designee, a student enrolled at an institution under the jurisdiction of
20 the constituent unit, who shall be elected by the students enrolled at
21 the institutions under the jurisdiction of the constituent unit, and a
22 member of the faculty of any such institution, who shall be elected by
23 the faculty of the institutions under the jurisdiction of the constituent
24 unit. Elections pursuant to this subdivision shall be conducted in
25 accordance with procedures for such elections established by the board
26 of trustees of the constituent unit;

27 (3) If the constituent unit is the [Board of Trustees of the
28 Community-Technical Colleges or the Board of Trustees of] regional
29 community-technical colleges or the Connecticut State University
30 System, the purposes of the foundation shall be limited to providing
31 funding for (A) scholarships or other direct student financial aid, and
32 (B) programs, services or activities at one or more of the institutions
33 within its jurisdiction;

34 (4) If the state agency is a public institution of higher education, the
35 following persons shall serve as nonvoting members of the governing
36 board of the foundation unless the bylaws of the foundation provide
37 that they be voting members: The executive authority of the
38 institution, or his designee, a student enrolled at the institution, who
39 shall be elected by the students enrolled in the institution and a
40 member of the faculty of the institution, who shall be elected by the
41 faculty of the institution. Elections pursuant to this subdivision shall be
42 conducted in accordance with procedures for such elections
43 established by the board of trustees of the constituent unit which has
44 jurisdiction over the institution;

45 (5) The governing board of the foundation shall annually file with
46 the state agency an updated list of the members and officers of such
47 board;

48 (6) The salaries, benefits and expenses of officers and employees of
49 the foundation shall be paid solely by the foundation;

50 (7) The foundation shall use generally accepted accounting
51 principles in its financial record-keeping and reporting and shall not
52 engage in any prohibited act, as described under section 21a-190h of
53 the Solicitation of Charitable Funds Act;

54 (8) A foundation which has in any of its fiscal years receipts and
55 earnings from investments totaling one hundred thousand dollars per
56 year or more, or a foundation established for the principal purpose of
57 coordinated emergency recovery that operated in response to an
58 eligible incident, as defined in section 4-37r, during the fiscal year or
59 with funds that exceeded one hundred thousand dollars in the
60 aggregate, shall have completed on its behalf for such fiscal year a full
61 audit of the books and accounts of the foundation. A foundation which
62 has receipts and earnings from investments totaling less than one
63 hundred thousand dollars in each fiscal year during any three of its
64 consecutive fiscal years beginning October 1, 1986, shall have
65 completed on its behalf for the third fiscal year in any such three-year
66 period a full audit of the books and accounts of the foundation, unless
67 such foundation was established for the principal purpose of
68 coordinated emergency recovery and had completed on its behalf such
69 an audit for any year in any such three-year period. For each fiscal year
70 in which an audit is not required pursuant to this subdivision financial
71 statements shall be provided by the foundation to the executive
72 authority of the state agency. Each audit under this subdivision shall
73 be conducted (A) by an independent certified public accountant or, if
74 requested by the state agency with the consent of the foundation, the
75 Auditors of Public Accounts, and (B) in accordance with generally
76 accepted auditing standards. [The audit report shall include financial
77 statements, a management letter and an audit opinion which address

78 the] The auditor shall submit (i) a report that includes an opinion
79 regarding the financial statements and a management letter, and (ii) a
80 report that includes an opinion on conformance of the operating
81 procedures of the foundation with the provisions of sections 4-37e to 4-
82 37i, inclusive, and [recommend] recommendations for any corrective
83 actions needed to ensure such conformance. Each audit report shall
84 disclose the receipt or use by the foundation of any public funds in
85 violation of said sections or any other provision of the general statutes.
86 The foundation shall provide a copy of each audit report completed
87 pursuant to this subdivision to the executive authority of the state
88 agency and the Attorney General. Each financial statement required
89 under this subdivision shall include, for the fiscal year to which the
90 statement applies, the total receipts and earnings from investments of
91 the foundation and the amount and purpose of each receipt of funds
92 by the state agency from the foundation. As used in this subdivision,
93 "fiscal year" means any twelve-month period adopted by a foundation
94 as its accounting year;

95 (9) If the state agency is a constituent unit or public institution of
96 higher education and the foundation has an endowment fund with a
97 market value that is greater than one million five hundred thousand
98 dollars, the foundation shall annually provide the following, in
99 accordance with the provisions of section 11-4a, to the joint standing
100 committee of the General Assembly having cognizance of matters
101 relating to higher education, the speaker of the House of
102 Representatives, the president pro tempore of the Senate, the majority
103 leader of the House of Representatives, the majority leader of the
104 Senate, the minority leader of the House of Representatives and the
105 minority leader of the Senate: (A) A list of the current members and
106 officers of the governing board of the foundation; (B) a copy of the
107 most recent annual report of the foundation; (C) a copy of the most
108 recent audited financial statements, management letter and audit
109 reports of the foundation that are required under subdivision (8) of
110 this section; (D) a copy of the written agreement between the state
111 agency and the foundation that is required under subdivision (10) of

112 this section; (E) a copy of the written policy required under section 4-
113 37j; (F) a copy of any conflicts of interest policy of the foundation; (G) a
114 copy of the foundation's most recently filed Internal Revenue Service
115 form 990, including all parts and schedules that are required to be
116 made available for public inspection under the Internal Revenue Code
117 of 1986, or any subsequent corresponding internal revenue code of the
118 United States, as amended from time to time; (H) a copy of the bylaws
119 of the foundation; (I) a report of the total number and average size of
120 disbursements made to each public institution of higher education for
121 (i) undergraduate and graduate scholarships, fellowships and awards,
122 (ii) program and research support, (iii) equipment, and (iv) facilities
123 construction, improvements and related expenses; (J) as to any
124 employee of the public institution of higher education for whom the
125 foundation contributes some or all of the salary, wages or fringe
126 benefit expenses, a report listing the position of each such employee
127 and, for each position, the amount of the financial reimbursement by
128 the foundation to the public institutions of higher education for such
129 employee's salary, wages or fringe benefit expenses; (K) the identity of
130 any person, firm, corporation or other entity donating funds or other
131 things of value to the foundation, unless the donor has requested that
132 such donor's identity not be publicly disclosed; and (L) a list of all
133 deanships, professorships, chairs, schools, institutes, centers or
134 facilities of the state agency that were named in recognition of
135 foundation donors upon the approval of the board of trustees of the
136 state agency during the preceding fiscal year. The information
137 delivered under this subdivision shall constitute a public record and
138 shall be disclosed in accordance with the Freedom of Information Act,
139 as defined in section 1-200;

140 [(9)] (10) There shall be a written agreement between the state
141 agency and the foundation [which] that (A) addresses any use by the
142 foundation of the agency's facilities and resources including, but not
143 limited to, office space, storage space, office furniture and equipment,
144 utilities, photocopying services, computer systems and the
145 maintenance by the state agency of the books and records of the

146 foundation, provided any such books and records maintained by the
147 state agency shall not be deemed to be public records and shall not be
148 subject to disclosure pursuant to the provisions of section 1-210, (B)
149 provides that the state agency shall have no liability for the
150 obligations, acts or omissions of the foundation, (C) requires the
151 foundation to reimburse the state agency for expenses the agency
152 incurs as a result of foundation operations, if the agency would not
153 have otherwise incurred such expenses, (D) in the case of foundations
154 established for a constituent unit of the state system of higher
155 education or for a public institution of higher education, requires the
156 foundation to establish and adhere to an investment policy and a
157 spending policy that are consistent with sections 45a-535 to 45a-535i,
158 inclusive, [and] (E) on and after July 1, 2017, if the state agency is a
159 constituent unit or a public institution of higher education, provides
160 that (i) the total cash compensation to be paid in a fiscal year by the
161 state agency to the foundation shall decrease from the amount paid in
162 the preceding fiscal year or the amount paid in the fiscal year ending
163 June 30, 2016, whichever is greater, by (I) one million dollars when the
164 market value of the foundation's endowment fund as of January first
165 of the preceding fiscal year is equal to or greater than five hundred
166 million dollars but less than seven hundred million dollars, (II) one
167 million five hundred thousand dollars when the market value of such
168 fund as of January first of the preceding fiscal year is equal to or
169 greater than seven hundred million dollars but less than nine hundred
170 million dollars, or (III) three million dollars when the market value of
171 such fund as of January first of the preceding fiscal year is equal to or
172 greater than nine hundred million dollars but less than one billion two
173 hundred fifty million dollars, (ii) no cash compensation shall be paid
174 by the state agency to the foundation when the amount in such
175 foundation's endowment fund as of January first of the preceding
176 fiscal year is equal to or greater than one billion two hundred fifty
177 million dollars, and (iii) if the market value of the foundation's
178 endowment fund as of January first of the preceding fiscal year
179 decreases below any of the thresholds stated in subclause (I), (II) or
180 (III) of clause (i) of this subparagraph, then the amount of the cash

181 payment to the foundation shall be increased to equal the same
182 amount that was paid to the foundation prior to exceeding the
183 threshold in subclause (I), (II) or (III) of clause (i) of this subparagraph,
184 until the July first following a January first on which the market value
185 of the foundation's endowment fund again exceeds such threshold, (F)
186 on and after July 1, 2017, requires the foundation to use reasonable
187 efforts to raise gifts and commitments each fiscal year for student
188 support, including, but not limited to, scholarships, assistantships,
189 fellowships, awards and prizes, that equal not less than fifteen per cent
190 of the total amount of all gifts and commitments raised by the
191 foundation in the same fiscal year, and (G) provides that if the
192 foundation ceases to exist or ceases to be a foundation, as defined in
193 section 4-37e, (i) the foundation shall be prohibited from using the
194 name of the state agency, (ii) the records of the foundation, or copies of
195 such records, shall be made available to and may be retained by the
196 state agency, provided any such records or copies which are retained
197 by the state agency shall not be deemed to be public records and shall
198 not be subject to disclosure pursuant to the provisions of section 1-210,
199 and (iii) there are procedures for the disposition of the financial and
200 other assets of the foundation. If the state agency is a constituent unit,
201 the board of trustees of the constituent unit shall approve such
202 agreement. If the state agency is a public institution of higher
203 education, the board of trustees of the constituent unit which has
204 jurisdiction over the institution shall approve such agreement; and

205 [(10)] (11) If the foundation is established for the principal purpose
206 of coordinated emergency recovery, the Department of Emergency
207 Services and Public Protection shall be deemed the state agency for
208 purposes of this section, and the deputy commissioner of said
209 department with jurisdiction over the Division of Emergency
210 Management and Homeland Security shall be deemed the executive
211 authority for purposes of this section."

This act shall take effect as follows and shall amend the following sections:

Sec. 501	<i>July 1, 2017</i>	4-37f
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